

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	5

MR. SPEAKER:

*Your Committee on Education, to which was referred House Bill 1891, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

1 Page 4, between lines 24 and 25, begin a new paragraph and insert:
 2 "SECTION 3. IC 20-6.1-6-18 IS ADDED TO THE INDIANA
 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2001]: **Sec. 18. If:**
 5 **(1) a teacher is unable to attend school because an emergency**
 6 **has been declared by the civil authorities in the county in**
 7 **which the teacher resides; and**
 8 **(2) the school corporation receives verification that an**
 9 **emergency was declared;**
 10 **the teacher shall receive contingency leave with pay for the period**
 11 **that the teacher was unable to attend school."**
 12 Page 19, between lines 27 and 28, begin a new paragraph and insert:
 13 "SECTION 15. IC 34-13-3-5 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a) A judgment**
 15 **rendered with respect to or a settlement made by a governmental entity**
 16 **bars an action by the claimant against an employee whose conduct gave**

rise to the claim resulting in that judgment or settlement. A lawsuit alleging that an employee acted within the scope of the employee's employment must be exclusive to the complaint and bars an action by the claimant against the employee personally. However, if the governmental entity answers that the employee acted outside the scope of the employee's employment, the plaintiff may amend the complaint and sue the employee personally. An amendment to the complaint by the plaintiff under this subsection must be filed not later than one hundred eighty (180) days from the date the answer was filed and may be filed notwithstanding the fact that the statute of limitations has run.

(b) A lawsuit filed against an employee personally must allege that an act or omission of the employee that causes a loss is:

- (1) criminal;
- (2) clearly outside the scope of the employee's employment;
- (3) malicious;
- (4) willful and wanton; or
- (5) calculated to benefit the employee personally.

The complaint must contain a reasonable factual basis supporting the allegations.

(c) **Except as provided in subsection (d), and** subject to the provisions of sections 4, 14, 15, and 16 of this chapter, the governmental entity shall pay any judgment, compromise, or settlement of a claim or suit against an employee when:

- (1) the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss; and

(2) the:

(A) governor in the case of a claim or suit against a state employee; or

(B) governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision; determines that paying the judgment, compromise, or settlement is in the best interest of the governmental entity.

(d) Subject to the provisions of sections 4 and 16 of this chapter, a school corporation shall pay any judgment, compromise, or settlement of a claim or suit against an employee when the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee may be held

1 **personally liable for the loss.**

2 (e) The governmental entity shall provide counsel for and pay all
3 costs and fees incurred by or on behalf of an employee in defense of a
4 claim or suit for a loss occurring because of acts or omissions within
5 the scope of the employee's employment, regardless of whether the
6 employee can or cannot be held personally liable for the loss.

7 ~~(e)~~ (f) This chapter shall not be construed as:

8 (1) a waiver of the eleventh amendment to the Constitution of the
9 United States;

10 (2) consent by the state of Indiana or its employees to be sued in
11 any federal court; or

12 (3) consent to be sued in any state court beyond the boundaries of
13 Indiana."

14 Page 21, line 11, after "act," insert "**and IC 20-6.1-6-18, as added**
15 **by this act,**".

16 Page 21, line 11, delete "conflicts" and insert "**conflict**".

17 Page 21, line 12, after "IC 20-6.1-6-1" insert "**, as amended by this**
18 **act,**".

19 Page 21, line 13, delete "applies" and insert "**and IC 20-6.1-6-18,**
20 **as added by this act, apply**".

21 Renumber all SECTIONS consecutively.
(Reference is to HB 1891 as introduced.)

and when so amended that said bill do pass.

Representative Porter